

MIDDLETOWN TOWN COUNCIL  
MEETING MINUTES  
December 12, 2011

The Middletown Town Council Meeting was held in the Council Chamber, 7875 Church Street, Middletown, VA on Monday, December 12, 2011 at 7:00 pm.

**Town Council Present**

Mayor Marshall Brown  
Councilor Gil Barrington  
Councilor Carl H. Bernhards  
Councilor John Blaisdell  
Councilor Mark H. Davis  
Councilor Donna M. G. Gray  
Councilor Charles H. Harbaugh, IV.

**Staff Present**

Joan F. Roche, Town Manager  
Rebecca L. Layman, Municipal Clerk  
Donald Riffey, Superintendent of Public Works  
R. Philip Breeden, Chief of Police

**Town Attorney**

Stephen G. Butler

**1. Call to Order**

Mayor Brown called the meeting to order at 7:00 p.m.

**2. Moment of Silence**

Mayor Brown called for a moment of silence

**3. Pledge of Allegiance**

Mayor Brown led those present in the Pledge of Allegiance.

**4. Roll Call**

All Councilors were present.

**5. Set Agenda.**

Councilor Blaisdell made a motion to set the agenda. Councilor Gray seconded the motion. All councilors were in favor. Mayor Brown would like to recommend a change to item 8a instead of reading approval to pay \$175.00 since we do not have a contract yet nor may not it should read approval to contract with. Councilor Blaisdell made a motion to approve the change. Councilor Gray seconded the motion. All councilors were in favor.

**6. Citizen Comments.**

There were no citizen comments.

**7. Approval of Previous Council Meeting Minutes**

Councilor Barrington made a motion to approve the minutes from the November 14, 2011 Public Hearing and Town Council meeting. Councilor Blaisdell seconded the motion. All Councilors were in favor. The minutes were approved.

## **8. Report of the Facilities Committee**

Councilor Davis made a motion to engage in a contract with Winchester Environmental Consultants for testing samples from the second floor of the Town Hall. Councilor Harbaugh seconded the motion. Mayor Brown asked for questions and comments from the council. Councilor Davis felt it was a waste of money, the second floor is rarely used and the plaster may have fallen quite awhile ago. Plaster in old buildings that are not maintained does occasionally fall. Councilor Davis stated he would almost be willing to bet money that there is no asbestos in it, because they did not put asbestos in plaster when that ceiling was put in. Councilor Davis also stated that if there even is asbestos which is highly unlikely there is nobody up there and does not present a hazard. Once it is tested if by some chance it did have asbestos then people are going to try and convince us that we need to have people in space suits come in and remove it all which will probably cost thousands of dollars which would be an even bigger waste of money. The only people that have a problem with asbestos is people who work with it every day for years and years so this is not a hazard and we can do better things with this money. Councilor Blaisdell stated that we are aware that there is a potential problem and if we don't check and find out for sure we are just leaving ourselves wide open, and if there is a problem then we are going to have to correct it. Councilor Blaisdell would rather know and correct it then be worrying about rather it is or it isn't. Councilor Gray stated that she agrees with Councilor Davis that we could use the money on other things and that we are just searching for things, and if we looked we could find a millions things that are wrong and that need to be approved upon. Councilor Barrington stated that he is not an expert on whether or not there is asbestos up there or not, and he does think it is a chance that we want to take. Councilor Bernhards stated that it appears that we will be taking sample to them for testing. Councilor Bernhards stated that the samples brought to the meeting three weeks ago upon my own personal inspection and upon everyone else's that it is just plaster with horse hair and that is what was used in the 1880's and that is when that section of the building was built approximately and he does not see how there can possibly be any asbestos in there. There has been no talk about after this test what is the purpose of the test and what we will be doing with the space upstairs that is so important that we must get these repairs done when it is simply a storage space. Councilor Bernhards also stated that if there is any thought of putting offices up there for whatever reason he feels it should have come along with this test before we talked about having the testing, because if we are talking about putting offices with people up there then yes at that time we should test, but right now he does not see the need. Mayor Brown stated that he was upstairs today and it is an old meeting room with plaster ceiling and plaster walls, and there is an active water leak and is dripping. The reason the Mayor was up there is to inspect the damage and put a coffee can under the dripping water. There is plaster actively falling from the ceiling now there are water bulges up there from a leak. There is evidence of fallen plaster with fibers what kind of fibers the Mayor has no idea, but he is aware of the liability issues with asbestos fibers it is the most dangerous and hazards fibers, because it is a silent killer with no smell or taste. The Mayor is not willing to put the employees or anyone else at risk. Mayor Brown asked for a roll call vote.

Councilor Bernhards – No  
Councilor Harbaugh – Yes  
Councilor Barrington – Yes

Councilor Gray – No  
Councilor Blaisdell – Yes  
Councilor Davis – No

Tie vote. Mayor Brown gave his tie breaker vote as Yes.

Motion carried

## **9. Report of the Personnel and Finance Committee**

Councilor Bernhards made a motion for the appointment of Charles H. Harbaugh, IV for the position of Vice Mayor for the Town of Middletown. Councilor Davis seconded the motion. Mayor Brown asked for a roll call vote.

Councilor Bernhard – Yes  
Councilor Barrington – No  
Councilor Gray – Yes

Councilor Blaisdell – No  
Councilor Davis – Yes

Motion carried

Councilor Bernhards gave the Treasurer report. Mayor Brown had a question that Councilor Gray brought up at the last meeting that First Bank had a service charge of \$25.00 and BB&T did not show any service charges. The question is there any and the statements was yes they do a service charge. Mayor Brown stated that it is not indicated on the report, and asked Councilor Bernhards to give him a rough idea of the service charges from BB&T. Councilor Bernhards stated that it is based on our minimum balance, number of deposits, and the number of checks we write. Mayor Brown stated that there is none. Councilor Bernhards stated that we do not write any checks or make deposits at the account at BB&T so there is no fees. Councilor Gray asked before we switched to First Bank were we getting charged a service fee, because she does not recall that we were. Councilor Bernhards stated that was done 1 ½ to 2 years ago and a decision was made at that time to switch to First Bank. Councilor Gary asked again if we got a service charge then. Councilor Bernhards stated he did not recall. Mayor Brown asked if the Treasurer could report on that at the next Committee meeting so that we can have a firm answer on this issue. Councilor Bernhards reported that is not included in the November report, but the Town has received the invoice for the Frederick County Voters Registration office in the amount of \$2131.59 this is for the special election for one council member and if everything is on track for moving the elections then we will have saved \$4000.00 that was budgeted for in this year's budget. Mayor Brown asked Town Manager Roche were we stood in moving the date of the elections. Town Manager Roche stated that we have done everything that we need to do, and that Attorney Butler will be filing the necessary papers with the General Assembly. Attorney Butler asked if Town Manager Roche has been in touch with the State representative as far as introducing the bill, and changing the Charter and Town Manager Roche stated yes. Town Manager Roche stated we are set to go, and it is just the matter of the formality. Councilor Bernhards stated that the annual audit is taking some time they are currently working with the Treasurer. There are some changes and some things that they are trying to track down and there is a list of about 180 transactions they are working on some are for a penny, some are for five cents, and seven cents. Mayor Brown asked that Councilor Bernhards express concerns to the audit firm that we are coming up on an income tax time again and would not want to see this get put to the side and would like to see this resolved and a report brought to this council. Councilor Gray asked if any attempts were being made to schedule the 2011 and 2012 audit. Councilor Bernhards stated no. Councilor Gray asked why we have not. Councilor Bernhards stated we have not finished the first audit. Mayor Brown stated that the books have been closed for the fiscal year, and the audit has not been requested yet. One reason the audit has not been requested is because of his concerns with the current firm in the delay of getting this audit done. Mayor Brown stated that before he orders another audit to this same firm he wants to make sure he gets the first one. Mayor Brown stated that if it turns out we do not get good service from the current firm he would like to delay awarding any contract for our fiscal year 2011 and 2012. Councilor Gray stated that it has always been the practice for many years to have the audit when the books are closed. Councilor Bernhards stated that the council delayed for several months before a decision was made to go with the current firm. Councilor Davis stated that at the other informal meetings everyone agreed that it is not required to have an audit every year, and since it is fairly expensive we discussed having audits every other year.

Councilor Bernhards made a motion to pay the bills. Councilor Blaisdell seconded the motion. Mayor Brown asked for questions or comments. Councilor Gray had a question about Judy Excavating use of the Town's backhoe for one of the water leaks. Councilor Gray asked is that because we do not have anyone to run the backhoe? Superintendent Riffey stated that at that time he was short staffed and needed extra help. Councilor Gray asked about the training for Town Manager Roche, because we had the VML conference listed back in September's disbursements. Town Manager Roche stated it was used for gas

and meals, and back in September was for the hotel room. Councilor Gray made a suggestion to break down the description for each item. Mayor Brown stated that he encourages each of the councilors to call the Treasurer and ask her question specifically, because we have has all the disbursements for a week now. All councilors were in favor of paying the bills.

Motion carried

#### **10. Report of the Public Works Committee**

Councilor Harbaugh made a motion to pay G.B. Foltz Contracting \$12.25 per linear foot for waterline replacement repairs. Councilor Barrington seconded the motion. Superintendent Riffey stated that this is for the installation and does not include pipe we will still have to put material in on top of this. This is just for the contractor to do the work. Councilor Gray asked what will be the total cost? Superintendent Riffey stated he is still working on prices for the material, and for just the bid it is estimated at 540 feet. Councilor Bernhards wanted to clarify that this work will be done on Church Street between 3<sup>rd</sup> and 4<sup>th</sup> street. Mayor Brown asked for a roll call vote.

Councilor Bernhards – Yes  
Councilor Harbaugh – Yes  
Councilor Barrington – Yes

Councilor Gray – Yes  
Councilor Blaisdell – Yes  
Councilor Davis – Yes

Motion carried

#### **11. Report of Public Safety Committee**

Report of the Police Department given by Chief Breeden (attached).

Chief Breeden announced that Gruff Herman has left the Middletown Police Department. Mr. Herman decided that police work was not for him, and he did not want to get back into police work. Chief Breeden stated that is was able to hire a new officer, and he has just graduated from the Police Academy. His name is Enrique Lazarte and he is originally from Peru. He is a bilingual police officers and that is something that the Middletown Police Department has never had. Mayor Brown congratulated Chief Breeden in finding Officer Lazarte, and stated that he will be a great benefit to this police department.

#### **12. Report of the Ordinance Committee**

Councilor Gray stated she is working with the Ordinance committee on one ordinance change.

#### **13. Report of the Planning and Zoning Committee**

Councilor Blaisdell asked if any applications have been turned in for the vacancies on the Planning Commission. Clerk Layman stated that there has not been any turned in. Councilor Davis stated that the Land Use Plan that was developed by the County and Steering Committee studying the possibility of a boundary adjustment northeast of Middletown had been updated as requested by the County Supervisors at their September meeting.

#### **14. Report of Special Committees**

Councilor Bernhards stated that the 4<sup>th</sup> of July committee will be having a kick off meeting on February 15 at the Town Hall @ 7:00 p.m. St. Thomas Chapel will be have a holiday concert on December 17 @ 7:00 p.m. and is free, but donations are welcomed. There will be not holiday house tours this year in the Town. Councilor Bernhards encourages everyone to visit Belle Grove now that it is decorated for the holidays.

#### **15. New or Unfinished Business**

Next Committee Meeting will be January 17

Next Work Session Meeting will be January 3

Attached is the 2012 projected calendar. Mayor Brown brings it before the Council and requests a voice approval to make sure there are no major errors. Councilor Blaisdell made a motion to approve the 2012 calendar. Councilor Harbaugh seconded the motion. All councilors were in favor.

Motion carried

Strategic Planning Session will be on January 13 @ 9:00 a.m. this is to lay out what the Council will be doing for the next couple of years.

Mayor Brown stated that the Christmas tree on Reliance Road was done by the efforts of Councilor Harbaugh. Mayor Brown stated that Councilor Harbaugh generator has burned up and is now using gas on a new generator. Mayor Brown is encouraging anyone to drop off a few dollars to Councilor Harbaugh for gas and to help pay for the new generator.

#### **16. Petitions and Communication**

Mayor Brown stated that a phone call from Mayor Copeland was received this afternoon thanking everyone for the get well wishes.

Mayor Brown and the Council said farewell to Attorney Butler who is retiring and, has been with the Town for 37 years.

#### **17. Adjournment**

Councilor Blasidell made a motion to adjourn. Councilor Harbaugh seconded the motion. All Councilors were in favor. Meeting adjourned at 7:45 pm.

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Marshall J. Brown, Mayor

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Rebecca L. Layman  
Town Clerk

